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EXAMINER

REILLY, SEAN M

ART UNIT PAPER NUMBER

2153

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/943,836	Applicant(s) JORDAN, ROYCE D.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Another Examiner has been assigned to this application.

This Office action is in response to Applicant's amendment and request for reconsideration filed on November 18, 2005. Claims 1-37 are presented for further examination. All independent claims have been amended.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claims 1-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

The additional claim limitations including of "the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of the limited available bandwidth in the wireless communication network," and "determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said

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identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network” are not supported by the original specification. To the extent to that “in recognition of the limited available bandwidth in the wireless communication network” is meant to modify the step of “selectively denying transmission” such that the system would select whether to deny transmission based on recognizing that the available network bandwidth is limited, such a limitation is not supported by the specification as originally filed.

The original specification only mentions bandwidth in the background, and does not describe any steps of selecting whether or not to transmit attachments based on recognizing an amount of bandwidth or limit of bandwidth on the network. For these reasons, the claims also lack enablement.

2. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim language is ambiguous due to the use of the term “in recognition of limited available bandwidth.” It is not clear whether this phrase is merely descriptive, non-functional language (i.e. in [the inventor’s] recognition of limited available bandwidth in the network, message delivery will be limited [inherently] because every network has limited bandwidth), or whether it is a functional limitation of the claimed invention (i.e. determining whether to transmit or deny messages based on [i.e. “in recognition of”] the amount of limited available bandwidth). The claim language does not clearly delineate which of these two interpretations apply, and is thus ambiguous.

Examiner has interpreted the claims according to the latter interpretation in analyzing the 35 U.S.C. 112, 1st paragraph issues above. However, because only the former interpretation is enabled by the specification, Examiner has interpreted the “in recognition” claim language for the purpose of applying prior art as having a merely descriptive, non-functional meaning (i.e. as describing the inherent characteristics of a network – that a network has limited available bandwidth and limiting message delivery in recognition of that fact).

The claim language is also ambiguous due to the use of the limitation “based *unilaterally* on message characteristics in recognition of the limited available bandwidth.” Assuming the latter interpretation above, it is not clear whether the use of the term “unilaterally” restricts the denying to only be based on message characteristics or rather restricts the denying to be based on message characteristics and the detection of limited available bandwidth.

As a whole Applicant’s claim language is cumbersome. Assuming Applicant wishes to proceed down this prosecution path (i.e. continuing to pursue claim language that is not supported by the specification) and the latter interpretation above is intended then Applicant should embrace the limitation “in recognition of limited available bandwidth” in an equivalent positive recitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau et al. (U.S. Patent No. 6,438,585, hereinafter “Mousseau”) and Gilhuly et al. (U.S. Patent Number 6,701,378; hereinafter Gilhuly).

In considering claim 1, as understood, Mousseau discloses a method for processing data in a wireless communication network (Fig. 1), comprising:

receiving at least one electronic message having at least one attachment associated therewith (Fig. 7, step 220; col. 16, lines 43-47), wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network (delivery of messages in a network will inherently be limited by the network's available bandwidth), the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics (e.g. file type) (col. 8, lines 19-26; col. 15, lines 46-65) in recognition of the limited available bandwidth in the wireless communication network (col. 1, lines 36-38, “due to the bandwidth limitations of wireless networks, only a portion of a user-selected data item is generally redirected to the user's mobile device”);

associating identifying indicia with each attachment in accordance with attachment file type (“file type”) and at least one additional characteristic of said attachment (“attachment size indicator”; col. 8, lines 19-23; col. 15, lines 63-65; col. 22, lines 25-30); and

determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network (Col. 16, lines 43-67 and col. 17, lines 18-30; col. 1, lines 36-38).

Mousseau disclosed the invention substantially as claimed however, Mousseau failed to specifically recite receiving the electronic message at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols. Mousseau disclosed the above claimed functionality occurs through a redirection program that runs on anyone of a server, desktop or mobile device however, Mousseau never stated running the redirection program at a wireless gateway. Nonetheless it was widely known at time of Applicant's invention to utilize Mousseau's redirector program at a wireless gateway, as evidenced by Gilhuly. In an analogous e-mail redirection system Gilhuly disclosed a redirector program (abstract) similar to Mousseau's redirector program. In Gilhuly's system the redirector program can be run at a wireless gateway (See inter alia Figure 6 and Col 13, lines 21-35). The gateway interfaces with at least one other communication network that uses different protocols (e.g. a hard link to the internet and a wireless connection that both utilize different protocols) (Gilhuly Col 4, lines 44-60). By placing the redirection program at the wireless gateway the system is able to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention modify Mousseau's system to include a redirector program at a wireless gateway as disclosed by Gilhuly, in order to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Col 13, lines 62-67).

In considering claim 2, Mousseau further discloses transmitting at least a portion

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of said message to a wireless application of said recipient in accordance with said determining step (col. 8, lines 19-27, wherein the message is sent either with or without the attachment).

In considering claim 3 Mousseau further discloses that the transmitted portion includes an indicia tag having at least a portion of said identifying indicia located therein (col. 16, lines 47-52, “sends the datagram to the mobile with information about the attachment”; col. 17, lines 20-22, wherein the “type of attachment” information is supplied to the recipient).

In considering claim 4, Mousseau further discloses that the indicia tag includes a unique identifier associated with said message (col. 8, lines 35-40, wherein the determination is made based on a unique sender address indicia identified with the message).

In considering claim 5, Mousseau further discloses that the transmitted portion includes clear text (i.e. e-mail text).

In considering claim 6, Mousseau further discloses stripping at least a portion of said message in accordance with said determining step (i.e. the attachment may be stripped).

In considering claim 7, Mousseau further discloses stripping said attachment from said message (col. 16, lines 50-52).

In considering claim 8, Mousseau further discloses storing said attachment after

stripping said attachment (col. 6, lines 45-52, the attachment may be sent to a “store”).

In considering claim 9, Mousseau further discloses receiving said message through a connection to the Internet (col. 7, line 63).

In considering claim 10, Mousseau further discloses receiving said message from a wireless data network (the system allows two-way e-mail messaging from wired or wireless devices).

In considering claim 11, Mousseau further discloses that the at least one characteristic is a file size of said attachment (col. 15, lines 63-65, “file...size”; col. 22, lines 27-28, “attachment size indicator”).

In considering claim 12, Mousseau further discloses that identifying indicia includes gateway identifying information (i.e. information related to the host system that associates the user’s wireless device with the user’s e-mail address; see col. 8, lines 8-28).

In considering claim 13, Mousseau further discloses transmitting said portion of said message through a wireless data network (the e-mail is sent to a wireless device; col. 6, lines 56-60).

In considering claim 14, Mousseau further discloses transmitting said portion of

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said message through a wireless data network to a wireless application (i.e. it is sent to a user's PDA or pager; col. 6, lines 56-60).

In considering claim 15, Mousseau further discloses that said wireless application is selected from the group consisting of a pager, a personal digital assistant, a wireless telephone, a wireless computer, a digital camera, and a digital camera including a self-contained web-cam (col. 6, lines 56-60).

In considering claim 16, Mousseau further discloses transmitting said portion of said message to said recipient and incorporating in said message portion an indication of one or more attachments stripped from said message (col. 16, lines 47-52; col. 17, lines 20-26).

In considering claims 17-19, Mousseau further discloses determining further processing of at least one of said stripped attachments, wherein said further processing includes processing at least one of said stripped attachments in a subsystem, wherein said subsystem includes an apparatus selected from the group consisting of a computer, a fax machine, a database, a telephone, and a printer (col. 16, lines 47-52; col. 17, lines 20-26; col. 8, lines 23-27).

Claims 20 and 23 describe a system and computer program product for performing the same steps as claim 1, and are thus rejected for the same reasons.

Claims 21 and 24 describe a system and computer program product for performing the same steps as claim 2, and are thus rejected for the same reasons.

Claims 22 and 25 describe a system and computer program product for performing the same steps as claim 5, and are thus rejected for the same reasons.

In considering claim 26, Mousseau discloses a system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a gateway structured with an internal network to receive electronic messages from at least one source (“host system 10,” col. 8, lines 12-14) wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network (delivery of messages in a network will inherently be limited by the network’s available bandwidth), the wireless communication network selectively denying transmission of attachments of electronic messages (col. 8, lines 19-26; col. 15, lines 46-65) in recognition of the limited available bandwidth in the wireless communication network (col. 1, lines 36-38, “due to the bandwidth limitations of wireless networks, only a portion of a user-selected data item is generally redirected to the user’s mobile device”);

said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment (“attachment type indicator” and “attachment size indicator”; col. 8, lines 19-27; col. 15, lines 63-65; col. 22, lines 25-30)); and

said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in recognition of limited available bandwidth in the wireless communication network (col. 1, lines 36-38) and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text (col. 8, lines 10-15, 19-27, "host system 202 uses the mobile device's location information to select the most appropriate attachment displayer 216 by first selecting the attachment displayers 216 in the database of displayers that are capable of processing the transaction..."; col. 15, lines 46-57, wherein the e-mail datagrams are sent as text; see also, col. 16, lines 43-67 and col. 17, lines 18-30).

In considering claim 27, Mousseau further discloses at least one mail router for receiving said electronic messages from the Internet (i.e. the mail server).

In considering claim 28, Mousseau further discloses that at least one of said mail routers is structured to handle traffic selected from the group consisting of inbound Internet traffic, outbound Internet traffic, and X-sockets traffic (col. 7, line 63).

In considering claim 29, Mousseau further discloses at least one message store for storing said electronic messages (col. 7, lines 65-66).

In considering claim 30, Mousseau further discloses at least one user database containing information for at least one user of said gateway (col. 16, lines 30-35).

In considering claim 31, although Mousseau does not explicitly disclose that at least one of said user databases is structured to verify user access to said gateway, Mousseau does disclose including both encryption and other security measures in the wireless attachment-processing system (col. 16, lines 30-31; col. 9, lines 49-62). Given this teaching, it would have been obvious to a person having ordinary skill in the art to include additional security features, such as verifying user access to the user's gateway device, in order to make the system even more secure.

In considering claim 32, along the same lines as claim 31, given the teachings of Mousseau regarding security and encryption, it would have been obvious to further include digital signatures or other authentication signatures to be associated with the sent messages, in order to increase security of the system.

In considering claim 33 Mousseau further discloses that at least one of said user databases is structured to receive instructions for filtering said electronic messages (col. 16, lines 30-40; col. 8, lines 35-40).

In considering claim 34 Mousseau further discloses at least one protocol handler for processing said electronic messages (col. 11, lines 19-20).

In considering claim 35 Mousseau further discloses at least one N Router machine for receiving said electronic messages in said gateway when said source is a wireless data network

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and transmitting said electronic messages to a recipient when said source is the Internet (col. 6, lines 56-67, wherein the system is a 2-way wireless paging system for e-mail, thus allowing the user gateway device to both send and receive messages to and from either the Internet or a wireless medium).

In considering claim 36, Mousseau further discloses at least one subsystem structured to process said messages in response to an instruction of said recipient (col. 17, lines 17-25).

In considering claim 37, Mousseau further discloses that the subsystem is selected from the group consisting of a computer subsystem, a fax machine subsystem, a database subsystem, a telephone subsystem, and a printer subsystem (col. 6, lines 45-50).

4. Claims 1-31, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foladare et al. (U.S. Patent No. 6,311,210, hereinafter "Foladare"), in view of Mousseau and Gilhuly.

In considering claim 1, as understood, Foladare discloses a method for processing data in a wireless communication network, comprising:

receiving at least one electronic message having at least one attachment associated therewith (col. 5, lines 44-51; col. 6, lines 20-23);

the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics (col. 6, lines 33-40,

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“determination of whether or not to send attachments, [and] which types of attachments to send”;
col. 7, lines 4-8);

associating identifying indicia with each attachment in accordance with attachment file type (col. 6, lines 33-40, wherein the central electronic mail device determines which attachments to forward based on attachment file type); and

determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment (col. 6, lines 33-40, “determination of whether or not to send attachments, [and] which types of attachments to send”; col. 7, lines 4-8).

However, Foladare does not disclose that the indicia is associated with the attachment in accordance with an additional characteristic other than file type. Nonetheless, such association is well known, as evidenced by Mousseau. In a similar art, as discussed above, Mousseau discloses a system for pushing attachments and messages from a server device to a wireless device, wherein the system decides whether and where to send attachments based on both file type and file size (see col. 15, lines 60-65; col. 22, lines 25-29). Given this teaching, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a file size as part of the indicator in the system taught by Foladare, to decrease the number of huge files sent across the network, thereby conserving network bandwidth. Therefore, it would have been obvious to include a file size as part of the indicator taught by Foladare.

Furthermore, as discussed above, Mousseau recognizes that bandwidth is limited on the network and describes limiting attachment delivery in recognition of that fact (col. 1, lines 36-38).

Foladare also failed to specifically recite receiving the electronic message at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols. Nonetheless it was widely known at time of Applicant's invention to selectively forward messages at wireless gateways, as evidenced by Gilhuly. In an analogous e-mail redirection system Gilhuly disclosed a redirector program that selectively forwards message attachments (abstract). In Gilhuly's system the redirector program can be run at a wireless gateway (See inter alia Figure 6 and Col 13, lines 21-35). The gateway interfaces with at least one other communication network that uses different protocols (e.g. a hard link to the internet and a wireless connection that both utilize different protocols) (Gilhuly Col 4, lines 44-60). By placing the redirection program at the wireless gateway the system is able to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention modify Foladare's system to include a redirector program at a wireless gateway as disclosed by Gilhuly, in order to further restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67).

In considering claim 2, Foladare further discloses transmitting at least a portion of said message to a wireless application of said recipient in accordance with said determining step (col. 5, lines 55-57; col. 6, lines 33-40).

In considering claim 3 Foladare further discloses that the transmitted portion includes an indicia tag having at least a portion of said identifying indicia located therein (col. 5, lines 34-40, wherein if the attachment is forwarded, the indication of file type will be forwarded as well).

In considering claim 4, Mousseau further discloses that the indicia tag includes a unique identifier associated with said message (col. 8, lines 35-40, wherein the determination is made based on a unique sender address indicia identified with the message). It would have been obvious to include this as part of the indicia taught by Foladare, so that users can filter messages and attachments according to sender address.

In considering claim 5, Foladare further discloses that the transmitted portion includes clear text (i.e. e-mail text).

In considering claim 6, Foladare further discloses stripping at least a portion of said message in accordance with said determining step (i.e. the attachment may be stripped).

In considering claim 7, Foladare further discloses stripping said attachment from said message.

In considering claim 8, Foladare further discloses storing said attachment after stripping said attachment (i.e. it is stored at the centralized electronic mail device).

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In considering claim 9, Foladare further discloses receiving said message through a connection to the Internet (col. 2, lines 64-65, "ISP").

In considering claim 10, Foladare further discloses receiving said message from a wireless data network (the system allows two-way e-mail messaging from wired or wireless devices; col. 3, lines 2-4).

In considering claim 11, Mousseau further discloses that the at least one characteristic is a file size of said attachment (col. 15, lines 63-65, "file...size"; col. 22, lines 27-28, "attachment size indicator").

In considering claim 12, Mousseau further discloses that identifying indicia includes gateway identifying information (i.e. information related to the host system that associates the user's wireless device with the user's e-mail address; see col. 8, lines 8-28). It would have been obvious to include this in the identifying information taught by Foladare, to further decide whether to forward messages based on a recipient's e-mail address.

In considering claim 13, Foladare further discloses transmitting said portion of said message through a wireless data network (the e-mail is sent to a wireless pager, etc.).

In considering claim 14, Foladare further discloses transmitting said portion of

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said message through a wireless data network to a wireless application (i.e. it is sent to a user's PDA or pager).

In considering claim 15, Foladare further discloses that said wireless application is selected from the group consisting of a pager, a personal digital assistant, a wireless telephone, a wireless computer, a digital camera, and a digital camera including a self-contained web-cam (col. 3, lines 2-4).

In considering claim 16, Mousseau further discloses transmitting said portion of said message to said recipient and incorporating in said message portion an indication of one or more attachments stripped from said message (col. 16, lines 47-52; col. 17, lines 20-26). It would have been obvious to include this in Foladare, so that a recipient of a message could be aware that an attachment is missing from the message.

In considering claims 17-19, Foladare and Mousseau further discloses determining further processing of at least one of said stripped attachments, wherein said further processing includes processing at least one of said stripped attachments in a subsystem, wherein said subsystem includes an apparatus selected from the group consisting of a computer, a fax machine, a database, a telephone, and a printer (Foladare, col. 3, lines 1-4; Mousseau, col. 16, lines 47-52; col. 17, lines 20-26; col. 8, lines 23-27).

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Claims 20 and 23 describe a system and computer program product for performing the same steps as claim 1, and are thus rejected for the same reasons.

Claims 21 and 24 describe a system and computer program product for performing the same steps as claim 2, and are thus rejected for the same reasons.

Claims 22 and 25 describe a system and computer program product for performing the same steps as claim 5, and are thus rejected for the same reasons.

In considering claim 26, Foladare discloses a system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a gateway structured with an internal network to receive electronic messages from at least one source (“centralized electronic mail device 160,” col. 5, lines 44-45);

said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type (col. 6, lines 34-40); and

said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in accordance with said indicia tag, wherein said transmitted portion includes at least clear text (col. 6, lines 34-40, wherein the e-mail is sent as text).

However, Foladare does not disclose that the indicia is associated with the attachment in accordance with an additional characteristic other than file type. Nonetheless, such association is

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well known, as evidenced by Mousseau. In a similar art, as discussed above, Mousseau discloses a system for pushing attachments and messages from a server device to a wireless device, wherein the system decides whether and where to send attachments based on both file type and file size (see col. 15, lines 60-65; col. 22, lines 25-29). Given this teaching, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a file size as part of the indicator in the system taught by Foladare, to decrease the number of huge files sent across the network, thereby conserving network bandwidth. Therefore, it would have been obvious to include a file size as part of the indicator taught by Foladare.

Furthermore, as discussed above, Mousseau recognizes that bandwidth is limited on the network and describes limiting attachment delivery in recognition of that fact (col. 1, lines 36-38).

In considering claim 27, Foladare further discloses at least one mail router for receiving said electronic messages from the Internet (i.e. the mail server).

In considering claim 28, Foladare further discloses that at least one of said mail routers is structured to handle traffic selected from the group consisting of inbound Internet traffic, outbound Internet traffic, and X-sockets traffic (col. 2, lines 64-65).

In considering claim 29, Foladare further discloses at least one message store for storing said electronic messages (inherent at the mail server).

In considering claim 30, Foladare further discloses at least one user database containing information for at least one user of said gateway (Fig. 3; col. 5, lines 10-25).

In considering claim 31, Foladare further discloses that at least one of said user databases is structured to verify user access to said gateway (Fig. 3, "access address" and "receiving party id").

In considering claim 33 Foladare further discloses that at least one of said user databases is structured to receive instructions for filtering said electronic messages (Fig. 3; col. 5, lines 10-25).

In considering claim 34 Foladare further discloses at least one protocol handler for processing said electronic messages (inherent in receiving electronic mail messages).

In considering claim 35 Foladare further discloses at least one N Router machine for receiving said electronic messages in said gateway when said source is a wireless data network and transmitting said electronic messages to a recipient when said source is the Internet (col. 3, lines 1-4, wherein the system is a 2-way wireless paging system for e-mail, thus allowing the user gateway device to both send and receive messages to and from either the Internet or a wireless medium).

In considering claim 36, Foladare further discloses at least one subsystem structured to process said messages in response to an instruction of said recipient (col. 7, lines 8-10, wherein messages can be retrieved by the recipient on demand).

In considering claim 37, Foladare further discloses that the subsystem is selected from the group consisting of a computer subsystem, a fax machine subsystem, a database subsystem, a telephone subsystem, and a printer subsystem (col. 7, lines 8-14).

5. Claims 1-11, 13-15, 20-34, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyda et al. (U.S. Patent No. 6,275,850, hereinafter “Beyda”), in view of Foladare, and further in view of Mousseau and Gilhuly.

Beyda discloses a similar wireless-based message attachment processing system as both Mousseau and Foladare, and further discloses forwarding attachments based on both size and type (col. 4, lines 40-41, “format of the attached file, and size of the attached file”). However, Beyda discloses a pull system, and not a push system. Nonetheless, Foladare discloses a push system (see col. 5, lines 44-57), which would have been obvious to use in the system taught by Beyda to eliminate the need for a user to actively pull messages from the server, thereby creating a real-time, continuous data delivery system.

Again, as discussed above, Mousseau recognizes that bandwidth is limited on the network and describes limiting attachment delivery in recognition of that fact (col. 1, lines 36-38).

Beyda also failed to specifically recite receiving the electronic message at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols. Nonetheless it was widely known at time of Applicant's invention to selectively forward messages at wireless gateways, as evidenced by Gilhuly. In an analogous e-mail redirection system Gilhuly disclosed a redirector program that selectively forwards message attachments (abstract). In Gulhuly's system the redirector program can be run at a wireless gateway (See inter alia Figure 6 and Col 13, lines 21-35). The gateway interfaces with at least one other communication network that uses different protocols (e.g. a hard link to the internet and a wireless connection that both utilize different protocols) (Gilhuly Col 4, lines 44-60). By placing the redirection program at the wireless gateway the system is able to specifically restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention modify Beyda's system to include a redirector program at a wireless gateway as disclosed by Gilhuly, in order to further restrict which messages will be pushed or forwarded over the wireless portion of the network (Gilhuly Col 13, lines 62-67).

The remaining features of claims 1-11, 13-15, 20-34, 36, and 37 are disclosed in col. 3, line 53 – col. 4, line 61, and col. 7, lines 1-60 of Beyda.

Particularly regarding claim 31, Beyda discloses that the user database verifies user access to the messaging gateway (col. 3, lines 63-67).

Particularly regarding claim 32, Beyda discloses that the user database is structured to permit signatures to be associated with said messages (i.e. user ID and password are used to receive the messages).

Response to Arguments

In response to Applicant's request for reconsideration filed on November 18, 2005, the following factual arguments are noted:

- a. Applicant's specification provides 112 1st support for "selectively denying transmission of attachments...in recognition of limited available bandwidth."
- b. The limitation "in recognition of limited available bandwidth in the wireless communication network" is definite.
- c. Mousseau, Foladare, and Beyda, all failed to disclose receiving the electronic message at a gateway for the wireless communication network.
- d. Mousseau, Foladare, and Beyda, all failed to disclose selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics.

In considering (a), Examiner respectfully disagrees with Applicant's argument. Foremost this discussion is only relevant assuming the limitation, "in recognition of the limited available bandwidth in the wireless communication network," is assumed to be a functional limitation given patentable weight. Again as discussed above for purpose of the prior rejection this

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limitation is understood to be non-functional. Applicant contends that the specification provides 112 1st ¶ written description support for 1) selectively denying transmission of attachments based on message characteristics and 2) in recognition of limited available bandwidth in the wireless network. Applicant points to ¶s 23 and 25 to support the first point and ¶s 05 and 38 to support the second point. Examiner disagrees that these sections of the specification support the above claim limitations and moreover Examiner disagrees with the piecemeal analysis Applicant provides to separately show support for these limitations without providing any correlation between the limitations. While the specification does support selectively denying transmission of attachments, **the specification simply fails to provide any *nexus* between the *selective denying* and the *available network bandwidth*.** The specification merely discusses selectively denying message attachments based on the message characteristics however **the added step of providing a nexus between the attachment denying and the message characteristics and the available bandwidth is not described anywhere in the specification.** Thus, Applicant did not reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention and the 112 1st ¶ rejection is proper.

In considering (b), Examiner respectfully disagrees with Applicant's argument. Applicant asserts that "the limitation *in recognition of limited available bandwidth in the wireless communication network* points out and emphasizes that the claimed subject matter is regulating network communication based unilaterally upon message characteristics and not based on user-based preferences" (Applicant response November 18, 2005 pg 9). This statement fails

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to address the ambiguities identified in the last office action and again maintained above in this office action. Applicant's argument does not provide any rationale as to why the claim as written is definite and amounts to nothing more than a mere assertion that the claim is definite. Examiner maintains that the claim language *in recognition of limited available bandwidth in the wireless communication network* is ambiguous and further that the newly added language *based unilaterally on message characteristics* is also ambiguous. Refer to the above 112 2nd ¶ rejection for further discussion as to the ambiguities related to these limitations.

In considering (c), Applicant's argument is moot in view of the new grounds of rejection set forth to address the newly added limitation.

In considering (d), Examiner respectfully disagrees with Applicant's argument. Applicant essentially argues that since the systems of Mousseau, Foladare, and Beyda provide a mechanism for users of the respective systems to enter preferences or characteristics for determining when attachments should be forwarded, then Mousseau, Foladare, and Beyda all fail to disclose selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics*. Examiner disagrees with this logic. The systems of Mousseau, Foladare, and Beyda allow users to enter preferences or characteristics to define how each system is to respond to message attachments. However, the actual step of "selectively denying" message attachments is based solely on the characteristics of each message in the systems of Mousseau, Foladare, and Beyda. Thus, the system of Mousseau, Foladare, and Beyda are merely programmed to act in a certain way by allowing users to enter preferences and

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settings for message attachment forwarding but the act of “selectively deny” attachments is “based unilaterally on message characteristics.”

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/1/2006


KRISNA LIM
PRIMARY EXAMINER